

## REMARKS

### Rejected Subject Matter

The Applicant has cancelled claims 1-16 and 20-21 and added claims 22-35 to more clearly claim the invention.

However, to completely address the Examiners rejections of the cancelled claims, in light of the following discussion, the Applicant would like to point out to the Examiner that the references relied on are not applicable to the Applicants invention or the newly added claims.

With regards to the 35 U.S.C. §102(b) rejections, it is clear that Lind does not disclose a pallet as claimed by the Applicant. Specifically, Lind does not disclose a deck, let alone a deck constructed of an upper and lower sheet material shaped to provide enclosed spaces between the sheets. Lind discloses a pallet having two identical halves that are joined and locked together by special locking lugs. (See column 2, lines 25-30 of Lind) Each of the pallet halves are formed using a molding process and are thus of a one piece construction (See column 2, lines 30-40 of Lind). This is completely different from the Applicants pallet which includes a multi-piece construction (See Applicants Figure 7).

Additionally, Lind does not disclose a support material, let alone a support material disposed in the enclosed spaces between the upper and lower sheets. Although the Applicant would like to address this element in more detail regarding Lind, the Applicant can find no evidence of a support material in the Lind reference and as such would only be guessing at what the Examiner considers support material. In his rejection, the Examiner simply stated that Lind discloses “an upper deck (12) comprising a support material” and does not direct the Applicants attention to where this disclosure of support material can be found. What Lind does disclose are locking lugs or supporting pads with an interlocking feature, but these are clearly not the same as the support material claimed by the Applicant.

Additionally, Lind does not disclose an upper frame member having an upward facing cavity which is closed off when the deck is fastened to the upper frame member. As discussed above, because Lind discloses a one piece molded half (i.e. the frame and

deck of Lind are one piece), Lind cannot and does not disclose fastening the deck to the upper frame member or the closing of an upward facing cavity by fastening the deck to the upper frame member. It should also stand to reason that if Lind does not disclose a support material and an upper frame member having an upward facing cavity which is closed off when the deck is fastened to the upper frame member, Lind cannot and does not disclose support material disposed in the upward facing cavity.

Furthermore, because Lind discloses molded pallet halves (including the deck portion) that are of a one piece construction, Lind cannot and does not disclose a deck and upper frame member, wherein the deck is attached to the upper frame member by means of a weld or adhesive. In fact, as discussed hereinabove, the deck portion in Lind is integral with the frame portion. Similarly, for reasons discussed hereinbefore and because Lind discloses molded pallet halves that are of a one piece construction (including foot members or as Lind refers to them “support pads”), Lind cannot and does not disclose foot members that are mechanically interlocked with the upper and lower frame members. Moreover, for reasons discussed hereinbefore, Lind cannot and does not disclose a deck portion wherein the upper and lower sheets have frusto-conical projections that mate with each other. In fact, Lind does not even mention the words conical or frusto-conical.

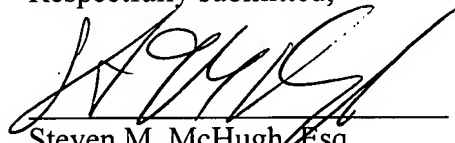
With regards to the 35 U.S.C. §103 rejections and in light of the discussion hereinabove with regard to Lind, it should be clear that the pallet of Lind is not similar or even close to the Applicants invention and that Lind does not disclose, teach or suggest the Applicants invention. As such, there is no motivation and it would not have been obvious to modify Lind to obtain the Applicants invention and thus, the Applicants invention is patentably non-obvious over Lind. And because the Arcocha, Favaron and Traudt references relied on Lind to allegedly show obviousness, they also are no longer applicable and are thus moot. As such, because the Applicants invention is patentably non-obvious over Lind, the Applicant’s invention must also be patentably non-obvious over Lind in light of Arcocha, Favaron and Traudt.

In light of the above discussion, the Applicant respectfully asserts that the Applicants invention (and the newly added claims) is patentable over Lind, Arcocha, Favaron and Traudt.

For the foregoing reasons, the Applicant believes that each and every issue raised by the Examiner has been adequately addressed and that this application has now been placed in condition for allowance. As such, entry of all of the amendments discussed herein is requested and early and favorable action is therefore respectfully solicited.

The Applicant hereby submits an RCE and a request for a one (1) month extension of time. The USPTO is hereby authorized to charge the required RCE fee of \$790.00 and the extension of time fees of \$120.00 to the Credit Card as disclosed in the attached form PTO-2038.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'SMcHugh', is written over a horizontal line.

Steven M. McHugh, Esq.

USPTO Reg. No. 47,784

Attorney for the Applicant